

**Family Law Information Centre  
Court Procedure Booklet #15**

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**Changing  
An Existing Order For  
Spousal Support**

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The Family Law Information Centre and Queen's Bench Chambers Office cannot give you legal advice or financial guidance, and cannot predict the outcome of court decisions.

This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation.

The Court Procedure Booklets listed on the inside front cover of this booklet are available electronically at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).

The Court Procedure Booklets are available for sale from the Queen's Printer Bookstore by phoning (780)427-4952 in Edmonton, or (403)297-6251 in Calgary, or by phoning 310-0000 toll-free from anywhere in Alberta, and asking for either of these phone numbers or by accessing the Queen's Printer website at [www.gov.ab.ca/qp](http://www.gov.ab.ca/qp)



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## **Family Law Information Centres**

The Family Law Information Centres can provide information about:

- the Federal Child Support Guidelines,
- how to calculate child support,
- how to apply for or change a Child Support Order,
- how to oppose an application that involves child support, and
- the procedures that must be followed in other family law matters, such as spousal support and child custody.

The Family Law Information Centres can be found at the following locations:

**Family Law Information Centre, Edmonton**  
Law Courts Building  
1A Sir Winston Churchill Square  
Edmonton, Alberta, T5J 0R2  
Tel: 780-415-0404  
Fax: 780-415-0403

**Family Law Information Centre, Calgary**  
Court House Annex  
603 - 6th Avenue SW  
Calgary, Alberta, T2P 0T3  
Tel: 403-297-6600  
Fax: 403-297-6605

## **Family Law Information Centre Court Procedure Booklets**

### **Applications Dealing With Child Support Or Arrears**

If your application deals with child support or arrears, you should read the booklet "Information for Unrepresented Parties about Child Support Matters" before reading the appropriate procedure booklets below.

#### **Child Support — when both parties live in Alberta**

Obtaining Income Information from the Other Party for Child Support Applications

Applying for an Order for Child Support

Changing an Existing Order for Child Support

Decreasing Child Support, Reducing or Cancelling Arrears, and Stay of Enforcement

Reducing or Cancelling Arrears and Stay of Enforcement (where there is no change to ongoing support)

Applying for an Order for Child Support Under the Parentage and Maintenance Act

Applying for a Consent Order that Includes Child Support

Opposing an Application that Involves Child Support

#### **Child Support — when the respondent lives outside Alberta**

Provisional Application to Change an Order for Child Support - Divorce Act

#### **Spousal Support**

Applying for an Order for Spousal Support

Changing an Existing Order for Spousal Support

#### **Custody and Access**

Applying for an Order for Custody and/or Access

Changing an Existing Order for Custody and/or Access

#### **Combination Applications**

Applying for an Order for Child Support and Custody and/or Access

Changing an Existing Order for Child Support and Custody and/or Access

Applying for an Order for Child Support and Spousal Support

Changing an Existing Order for Child Support and Spousal Support

Applying for an Order for Child Support, Spousal Support and Custody and/or Access

Changing an Existing Order for Child Support, Spousal Support and Custody and/or Access

#### **Restraining or Protection Orders**

Applying for a Restraining Order Without Notice

Applying for a Protection Order on Notice

Review of an Emergency Protection Order

#### **General**

Opposing an Application that Does Not Involve Child Support

Applying for a Consent Order that Does Not Include Child Support

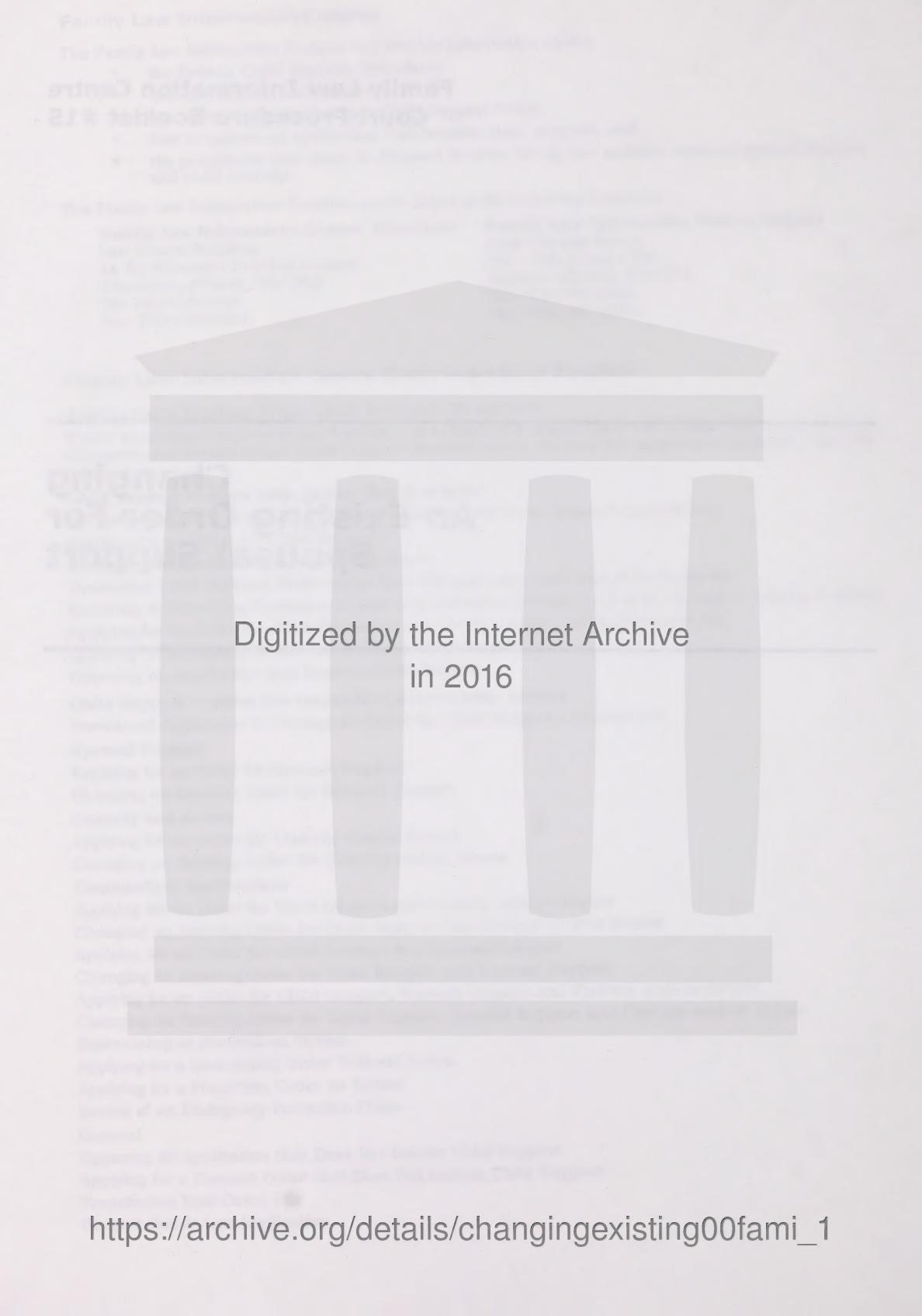
Transferring Your Court File

General Family Law Application

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## **Changing An Existing Order For Spousal Support**

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The local forms that you will need to file your application are included in Appendix 1.

You should refer to a lawyer or an inmate legal aid volunteer if you have questions regarding the application. Other evidence should be presented at the court, and you can witness the proceedings.

If you choose to go alone without a lawyer, you can seek to consult other sources of information as you prepare your application. You can find the following documents at your local law library, other libraries or at the bars, websites:

- \* Alberta Rules of Court - [www.scc.ab.ca/jepc/rules.htm](http://www.scc.ab.ca/jepc/rules.htm)
- \* Family Law Judicial Rules (attached to the Alberta Rules of Court) - [www.scc.ab.ca/jepc/judicialrules.html](http://www.scc.ab.ca/jepc/judicialrules.html)

## CONTENUTO

L'opera è composta da 12 capitoli, suddivisi in 3 volumi:  
Capitolo I: L'origine della vita e la sua storia  
Capitolo II: La vita nelle sue forme elementari  
Capitolo III: La vita nelle sue forme complesse  
Capitolo IV: La vita nelle sue forme complesse  
Capitolo V: La vita nelle sue forme complesse  
Capitolo VI: La vita nelle sue forme complesse  
Capitolo VII: La vita nelle sue forme complesse  
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Capitolo X: La vita nelle sue forme complesse  
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## About this Booklet

This booklet outlines what you must do when applying to change a Spousal Support Order when both parties live in Alberta.

If the other party (the respondent) lives outside of Alberta, you may want to refer to the booklets listed on the inside front cover under "Child Support - when the respondent lives outside Alberta" which have general information about making applications of this nature.

If the parties agree on the amount of spousal support, do not use this booklet. Rather, you can apply for a Consent Order. It must be signed by a judge, filed with the court, and it must follow court procedures. For more information, see Court Procedure Booklet, *Applying for a Consent Order that does not Include Child Support*.

If the parties cannot agree on the amount of spousal support to be paid, then an application must be made to the court. You will need to follow each of the steps outlined in this booklet. The judge will determine the appropriate amount and terms of the Variation Order.

The process outlined in this booklet is a very formal one that is designed to ensure fairness. There are 9 steps in the process. It is important that you follow each step carefully and thoroughly. The legal terms that you will need to know are explained in Appendix 1.

You should speak to a lawyer to determine if you have sufficient reasons to make the application, what evidence should be presented to the court, and possible outcomes for your application.

If you decide to go ahead without a lawyer, you may need to consult other sources of information as you prepare your application. You can find the following documents at your local court house library, other libraries or at the listed websites:

- *Alberta Rules of Court* - [www.gov.ab.ca/qp/rules.html](http://www.gov.ab.ca/qp/rules.html)
- *Family Law Practice Notes (attached to the Alberta Rules of Court)* -  
[www.albertacourts.ab.ca/webpage/qb/qb\\_family\\_law\\_practice\\_notes.htm](http://www.albertacourts.ab.ca/webpage/qb/qb_family_law_practice_notes.htm)

## **Before You Begin**

- *Divorce Act -*  
[founder.library.ualberta.ca/ftp/en/laws/title/d/index.html](http://founder.library.ualberta.ca/ftp/en/laws/title/d/index.html)
- *Domestic Relations Act -* [www.gov.ab.ca/qp/acts.html](http://www.gov.ab.ca/qp/acts.html)

### **Obtain income information**

You should start an application to change an Order for child support only after you have the income information from the other party. You may wish to serve the other party with a Notice to Disclose to obtain the necessary information. You should refer to Family Law Practice Note "2" which contains information about this process. Sample Notices to Disclose are available where you received this booklet, or on the Internet at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca).

### **Make sure you have a copy of the Support Order**

Before you can make an application, there must be an existing Alberta court action between you and the other party.

You will need a copy of the Divorce Judgment or Support Order that you want to change. If you don't have a copy, you can get a copy of your Order from the court house where it is filed. There will be a fee for this service.

The Order will give you the court action number and tell you exactly what was originally ordered. You can also use it to show which paragraph(s) of the Order you want to change.

Your application must be made, and all documents filed, in the judicial district where your initial action (for example, divorce) was filed. A list of all Chambers or Clerk's Offices located across the province (the judicial districts) is on the inside back cover of this booklet.

If you want to transfer your court file to another judicial district, see the Court Procedure Booklet, *Transferring Your Court File*.

## **Step 1: Prepare a Notice of Motion**

You must complete a Notice of Motion Family Law Application. It tells the court and respondent the date, time, and place of the upcoming application. The Notice of Motion also includes everything that the applicant will be requesting from the court.

A sample of this form is on page 23. When completing this form, you must:

- mark the box before each item that you are requesting from the court and fill in any blanks for those items,
- give a brief statement of your reasons for making this application, and
- sign your name at the bottom of the form.

Right before your signature you are also asked to fill in the date that you swore your Affidavit in support. You will prepare this Affidavit in Step 2.

## **Step 2: Prepare an Affidavit**

Affidavit evidence is the only type of evidence that a chambers judge will accept. It is important to include everything you need to prove your case and everything you want the judge to know. The only facts that you can discuss in court are those that are included in your or the other party's Affidavit on the court file.

The facts that you include in your Affidavit must be complete, accurate and relevant to the application before the court. There are serious consequences if you do not tell the truth. Remember that the other party or their lawyer can cross-examine or ask you questions on anything you include.

### **2-1 Prepare an Affidavit**

You may use the sample Affidavit that begins on page 31. The facts in the Affidavit should be listed in separate numbered paragraphs. Each paragraph must be numbered consecutively (1,2,3...). Complete as much of the sample Affidavit as applies to your case. Then cross out any paragraphs that do not apply to your situation. See the instructions on page 22 on how to delete information from a court document.

Next, add any other facts you feel are necessary to support your application. You may need to print or type other clauses in order to present all of the facts in your own case.

Remember that the Affidavit will be read by the judge. Make sure that it is readable and understandable. If your Affidavit is messy or confusing, you will need to re-type the sample Affidavit.

Identify each document that you refer to in the Affidavit as an "Exhibit" and letter each one consecutively (Exhibit "A," Exhibit "B," and so on). For example your Affidavit may discuss "a copy of the letter from my employer dated January 1, 1999, which is attached and marked as Exhibit A."

Then attach one copy of each exhibit, in alphabetical order, to the Affidavit, immediately after the signature page and immediately before the last page (called the backer). Label each exhibit clearly as Exhibit "A," Exhibit "B," and so on.

## **2-2 Swear or affirm to the truth of your Affidavit before a commissioner for oaths**

You must swear or affirm before a commissioner for oaths that the contents of your Affidavit are true. You may be asked to show personal identification.

A Chambers Clerk may act as a commissioner for oaths. The commissioner for oaths will check to make sure that each exhibit mentioned in the Affidavit is attached to the Affidavit. Each exhibit will have to be stamped with an exhibit stamp. The commissioner for oaths has the stamp. The stamp must be filled in for each exhibit. It is the commissioner for oaths who must sign each completed stamp.

## **Step 3: File the Affidavit and Notice of Motion and Choose a Court Date**

### **3-1 Make copies of your documents**

In order to proceed with your application you will need multiple copies of the documents that you have already completed. You should make the following number of copies of each document:

- Four copies of your Notice of Motion (total of five with the original).
- Three copies of your Affidavit and all exhibits (total of four).

Whenever you photocopy your Affidavit , you must photocopy all of the exhibits as well.

Take the originals and the copies of these documents to the Chambers Office for filing. The address for the Chambers Office in each judicial district is on the inside back cover of this booklet. In smaller centres, the Chambers Office may not be a separate section, but would be part of the Queen's Bench Clerk's Office.

### **3-2 Choose a court date**

When choosing your court date, remember that the respondent must have at least seven full days to reply to your application, not counting the date your application is served or your court date. Keep in mind the extra time you will need to serve your documents. It may take several days before the documents can be served in person. Or, the respondent may take a number of days to sign for and pick up registered mail. Step 4 will outline how to serve your application on the respondent.

The Chambers Clerk can help you choose a court date. Write the court date on the first page of all copies of the Notice of Motion.

### **3-3 File the Notice of Motion and Affidavit**

The Chambers Clerk will file your Notice of Motion and Affidavit, and return copies to you.

## **Step 4: Serve the Application**

The *Alberta Rules of Court* contains specific rules to guarantee that the respondent has been notified of a court action, application or any resulting court orders. These rules refer to the “serving” of documents on the respondent. You may want to refer to *Rules 13 to 26* of the *Alberta Rules of Court* for the procedure for service of court documents.

The respondent must receive one copy of each of the following:

- the filed Notice of Motion;
- the filed Affidavit; and

Note: Do not serve the original Notice of Motion (the one with your original signature and round filing stamp). You will need the original when you prepare the *Affidavit of Service*. See step 5-1.

You can serve the documents either by having them delivered in person or sending them by registered mail.

If you have the documents delivered in person, the respondent is properly served only if the documents are handed directly to the respondent. You should get another person to deliver the documents. This avoids possible conflict. It also avoids a possible disagreement between you and the respondent about whether the documents were actually served.

If you use registered mail, the documents are not properly served until the respondent has signed for the documents. Make sure to keep the customer receipt. It will have the item identifier number of your registered mail. To prove you served these documents, you will need both the *Delivery Confirmation Record* and the *Acknowledgement of Receipt* (or signature copy) from Canada Post. You will need the item identifier number of your registered mail to get the *Delivery Confirmation Record* or the *Signature Copy*.

The *Delivery Confirmation Record* is available at Canada Post’s Internet website for a period of 45 days at [www.canadapost.ca](http://www.canadapost.ca), or by calling Canada Post Customer Service at 1-888-550-6333 for a period of 24 months. You must also specifically request the *Signature Copy* from Canada Post by calling 1-888-550-6333. There is a fee for this service.

If you cannot locate the person that you wish to serve, you may use one or more of the following methods to find him or her:

- Look in a local phone book. If you have access to a computer, check Canadian and U.S. phone and address listings on the Internet at [www.worldpages.com](http://www.worldpages.com).
- Check Henderson's Directory, or any similar directory (these are available at your local public library).
- Talk to friends and relatives of the person you wish to locate.
- Call local or long distance telephone directory assistance.
- Contact the person's current or previous place of employment.
- Hire a process server or private investigator (listed in the Yellow Pages).

## **Step 5: Prepare and File an Affidavit of Service**

### **5-1 Prepare the Affidavit of Service**

There is a sample Affidavit of Service beginning on page 57. The Affidavit of Service is used to explain how and when the respondent received a copy of your application. The person who served the respondent must provide the information about service. The original Notice of Motion and one copy of the Affidavit must be attached to the Affidavit of Service as exhibits.

The person who served the documents must swear or affirm before a commissioner for oaths that the contents of the Affidavit of Service are true.

A Chambers Clerk may act as a commissioner for oaths. The person who signs the Affidavit may be asked to show personal identification.

### **5-2 Copy the Affidavit of Service**

Make one copy of the complete Affidavit of Service. The complete Affidavit consists of the Affidavit of Service and all exhibits, including the original Notice of Motion and one copy of the Affidavit.

## **Step 6: Going to Court**

### **5-3 File the Affidavit of Service**

File the original and the copy of the Affidavit of Service with the Chambers Office. They will return one filed copy to you. Take this copy with you when you go to court.

### **6-1 Prepare for court**

Before going to court you should read “Points to Remember When Representing Yourself in Court” on page 10.

You will need to take the following things with you to court:

- a pen and paper to write down the judge’s decisions as well as the judge’s name, the court room number and date of the application; and
- your copy of the filed Affidavit of Service which includes the Notice of Motion and Affidavit.

If you and the respondent are able to come to an agreement before the court date, you may want to prepare a Consent Order which must be signed by a judge. In this case, you should notify the court before your court date. See the Court Procedure Booklet, *Applying for a Consent Order that does not Include Child Support*.

### **6-2 Adjourning a court application**

You may not be prepared to proceed with your court application because you are negotiating the terms of a Consent Order or have not had the time to have the Consent Order typed up or signed. In that case, you and the respondent may agree that the application should be adjourned or delayed.

To adjourn an application by telephone, call the Chambers Clerk no later than 9:30 on the morning of your court date. Tell the clerk that you and the respondent have agreed to adjourn the application and the new court date that you have agreed to. The Chambers Clerk may ask you for the court action number. **You can only adjourn by telephone if both parties agree.**

After you have notified the clerk, you must confirm the adjournment in writing. Write a short letter to the clerk

providing:

- the full names of both parties,
- the court action number,
- the date your application was to be heard,
- the new court date, and
- the fact that both parties agreed to the adjournment.

Fax or deliver the letter before your original court date. You can ask the clerk for the fax number.

You can also adjourn your application by attending court on the original court date and asking the judge to adjourn the application. If the respondent agrees, the judge will adjourn your application to the new court date. If the respondent does not agree, the judge will ask you to explain why you want the adjournment. The judge will also ask the respondent why they are against the adjournment. Then the judge will decide whether or not your application will be adjourned.

### **6-3 Attend court**

Find your court room number by checking the Chambers lists which are posted in the court house. You can also check with a clerk. Make sure you have the correct court room number. There may be more than one court room in the building hearing family matters at the same time.

Your application will be assigned a number on the Chambers list. This number will be called when it is time for your application to be heard.

Other matters will be scheduled in court at the same time as your own. You will have to wait until you (or your number) are called. Difficult or long applications may have to wait until others are dealt with or may be moved to another date and time.

You will be asked to present your case to the judge. The only evidence you can discuss in court is what is included in your or the other party's Affidavit on the court file. You should be prepared to answer any questions the judge may have.

If your application is unsuccessful, you may have to pay costs.

## **Points to Remember When Representing Yourself in Court**

The court house is a very traditional place. When you are representing yourself it is up to you to persuade the judge that your position is right. For this reason you must act, dress and speak in a way which helps and does not distract from your case. Here are some tips:

1. When you come to court, dress in clothes that are clean, neat and in good repair. You should be clean and neatly groomed.
2. How you act is as important as how you look. Be respectful to everyone in the court house, which includes the judges, court staff, lawyers, the other party involved in your case and security officers.
3. The court has a very busy schedule. Be on time for any application, case management meeting, pre-trial conference, or trial, or there may be consequences. For example, if you are late for an application, your application may be dismissed if you are the applicant or, if you are the respondent, the court may proceed without you.
4. The judge will not speak to you about your case except during a scheduled application, case management meeting, pre-trial conference or trial, and when the other party or lawyer is present.
5. Wait until you are addressed by the judge before talking, otherwise the judge will not respond.
6. Staff in the Clerk's office cannot give you legal advice or recommendations on what you should do. Always be polite to court house staff and provide them with any information or materials that are requested.
7. When you represent yourself it is very important that you take all necessary materials to support your application. You may be able to get legal advice from a lawyer ahead of time to make sure you are proceeding correctly and have all the right materials in their required form. Some lawyers will provide assistance with the preparation of these documents.
8. When you are attending a chambers application and the case is called, come forward to the counsel table at the front of the court room and tell the judge who you are. Always stand when you are addressing the judge. Refer to male judges as "My Lord" and female judges as "My Lady." Speak slowly in a clear voice with sufficient volume.
9. Be respectful to the judge, any counsel and the other party. Do not speak out of turn. Outbursts, inappropriate language and displays of temper will not be tolerated and could well influence the outcome of your application.

## **Step 7: Prepare the Court Order**

You will have to prepare a written Order. The notes that you made in court will help you prepare the Order. You may also want a copy of the notes that the clerk made in court. You can obtain them for a fee from the Chambers Office.

### **7-1 Prepare the Order**

There is a sample Variation Order on page 67.

Add or remove paragraphs, or change the wording of the sample Order as necessary to reflect the Order given by the judge in court. Some sample additional terms are on page 75. These terms are just samples. You may need to change or adapt these sample terms to suit your own situation.

Note: If you need to add paragraphs or other terms you will need to re-type the sample Order.

Each of the terms of the Order should be in separate paragraphs, and numbered consecutively (1,2,3...).

The judge may not be prepared to sign an Order with handwritten paragraphs, paragraphs crossed off, or if significant changes have been made to the document. In this case, you will have to re-type the Order.

If the judge dismissed (or refused to grant) your application, you will still have to prepare a written Order. Sample Dismissal Orders are available where you received this booklet or on the Internet at [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca). After completing the Dismissal Order, make one copy of the Order, and bring the original and the copy to the Chambers Clerk for filing. The Chambers Clerk will arrange to have your order signed at a later time. One copy will be returned to you. If you want to have the Order mailed back to you, include a stamped, self-addressed envelope. **If the judge dismissed your application you do not have to complete the remaining steps in this booklet.**

### **7-2 Get the respondent to sign the Order**

If the respondent was also in court, the respondent must sign the Order once it is prepared. This signature shows that the respondent agrees that the order that was prepared is what the judge ordered in court. The respondent's signature appears below the line "Approved as to form and content." Please note that if the respondent is represented by a lawyer, the lawyer will sign the Order rather than the respondent.

If the respondent will not sign the Order, you may want to speak to a lawyer or a clerk to find out what other steps you can take.

### **7-3 Get the Order signed by the judge**

Make four copies of the Order (a total of five with the original). Take the original and the four copies to the Chambers Office. The Chambers Clerk will arrange to have your Order signed at a later time. If the Order is signed, three copies will be returned to you.

If you want to have the Order mailed back to you, include a stamped, self-addressed 9" x 12" envelope. Include enough postage so that the Chambers Clerk can return three copies of the Order to you. Check with the post office to make sure that you have the correct postage by having the envelope weighed and stamped.

## **Step 8: Serve the Filed Order**

### **8-1 Delivering the Order to the respondent**

Serve a filed copy of the Order on the respondent using the same method as you used in Step 4.

### **8-2 Delivering the Order to the Director of Maintenance Enforcement**

The Chambers Clerk will send a copy of the Order to the Director of Maintenance Enforcement (MEP). However, you may want to immediately provide a filed copy of the Order to MEP yourself so that MEP can act on it. The address for MEP is:

The Director of Maintenance Enforcement Program  
7<sup>th</sup> Floor, J.E. Brownlee Building,  
10365 - 97 Street  
Edmonton, Alberta T5J 3Z7  
phone: (780) 422-5554 or toll free in Alberta at 310-0000  
and ask for (780) 422-5554  
fax: (780) 422-1215

## **Step 9: Prepare and File an Affidavit of Service**

Prepare an Affidavit of Service using the same method as you used in Step 5 and using the form on page 77.

## **Appendix 1: Explanation of Legal Terms**

The following terms are used throughout this booklet and during the application process.

### **Action**

A lawsuit or an application made in the courts. For example, when you apply to the court for a change in child support or to gain custody of a child, you are taking a legal action. You may take a legal action to enforce your rights or to correct a wrong done to you by another person. When an action is started, the court assigns it an action number. This number is then used in all of the documents related to the action filed with the court. See *Rules of Court: Rules 6-12* and *Rule 563*.

### **Affidavit**

A written statement of facts that a person swears or affirms are true before a commissioner for oaths. The facts in the statement will be used as evidence in court. See definitions for evidence and fact. Affidavits may also be used to prove the identity of the person signing a document and to prove that you have delivered documents to another person. These types of Affidavits are called an Affidavit of Execution and an Affidavit of Service and are explained below. See *Rules of Court: Rules 298-314* and *Family Law Practice Note 3*.

### **Affidavit of Execution**

This is a written statement in which a person swears or affirms that they witnessed another person signing a document and verifies the identity of the person signing.

### **Affidavit of Service**

This is a written statement telling when, where and how documents have been served on another person, and how that person was found and identified. It is sworn or affirmed to and signed by the person who served the documents. See the definition for service.

### **Applicant**

The person who is making an application to the court. See the definitions for respondent and application.

## **Application**

Asking the court to make an Order. You can make several applications in the course of a court action. See the definitions for action, Notice of Motion and Order. See *Rules of Court: Rule 384-387 and 573-574* and *Family Law Practice Note 3*.

## **Approval as to Form and Content**

Signing an Order that was not signed by the judge when the application was made. If an Order is not signed by the judge when the application is made, the respondent must sign the Order to show that they agree that the Order they receive is the same as the Order given by the judge in court. This does not mean that the person agrees with the Order. See the definition for consent. See *Rules of Court: Rule 323.1*.

## **Arrears**

Any amount that has not been paid on a Support Order. If the monthly amounts ordered to be paid are not paid, they become arrears. Arrears can only be reduced by payment or by Order of the court.

## **Backer**

The last page of a court document. It lists the action number, style of cause and your address on the right-hand side of the page. See definitions for action and style of cause.

## **Chambers (court)**

A type of court where the judge makes a decision based upon affidavit evidence alone rather than oral testimony. Chambers applications usually take 10 to 20 minutes in total. If they are more complicated they should be scheduled for a special chambers date. At some court houses there is a separate chambers for family matters.

## **Chambers Clerk**

Person in charge of reviewing and filing of court documents (notices of motion, affidavits, all related Court Orders, etc.), commissioning of affidavits for court matters, and processing documentation for scheduling of court lists. Can provide information on available court dates and filing deadlines.

## **Chambers Office / Clerk's Office**

A department of the Court of Queen's Bench Clerk's Office. In smaller centres the chambers section may not be separately identified, but would be part of the Queen's Bench Clerk's Office. The Chambers Office deals with chambers matters only. See definition for Chambers Clerk for functions of the Chambers Office.

### **Clerk in Court**

Person who organizes the court files and records the outcome of the court application for the judge. The clerk sits at the front of the court below the judge.

### **Commissioner for Oaths**

Someone authorized by the province to swear or "commission" affidavits. Lawyers and court clerks are commissioners for oaths. Often banks and real estate offices have commissioners.

### **Consent**

When a person voluntarily agrees to something proposed by another. If you sign an Order saying you are consenting to the Order, you are saying that you agree with everything that has been stated in the Order.

### **Consent Order**

A Court Order signed by both parties showing they agree with everything that is in the Order.

### **Corollary Relief**

Orders that may be granted at the time of divorce. Some examples of this are Orders related to custody, access and child support.

### **Costs**

This is money that must be paid to another party or to the court. You may be ordered to pay costs if you are unsuccessful with your application or if you fail to attend a scheduled court date. See *Rules of Court: Schedule C*.

## **Court**

In this booklet, court refers to the Alberta Court of Queen's Bench.

## **Defendant**

The person responding to a court action. If you start a divorce action, you are the plaintiff and your spouse is the defendant.

## **Dismissal**

A judge's refusal to grant an application.

## **Evidence**

In court, the statements that are given under oath or the documents or other items that are shown to prove your case or disprove another person's case.

## **Exhibit**

Any paper or document that is referred to, or mentioned, in an Affidavit. It should then be marked as an "Exhibit" and attached as a part of the Affidavit. See *Rules of Court: Rules 311-312*.

## **Fact**

A thing that is known to have occurred, to exist, or to be true. It is a piece of factual evidence. See *Rules of Court: Rules 305(1)*.

## ***Federal Child Support Guidelines***

These *Guidelines* are changes to the *Divorce Act* that were introduced on May 1, 1997. They are made up of rules and tables for calculating the amount of child support that should be paid based on income, number of children, and the province or territory of residence.

## **File / Filing**

Giving documents to the court clerk to place on the court file. Any documents to be filed must have a backer, with the action number written on it, so that the clerk can find the file. See *Rules of Court: Rules 8-9*.

## **Gross**

The total amount before any deductions. For example, gross income would be the total dollars that a person receives before any income taxes are deducted. The gross cost of daycare is the cost of daycare before any subsidies or income tax deductions are taken into account. See definition of net.

## ***In Loco Parentis***

A legal term for someone who is not a biological parent of a child but who acts like a parent to the child. The court may treat that person the same as a biological parent for custody and access rights. The court may also decide that the person has a financial responsibility to support the child.

## **Judge**

In this booklet, judge means a Justice of the Court of Queen's Bench.

## **Judicial Districts**

Locations of Courts of Queen's Bench. These include Grande Prairie, Peace River, Fort McMurray, St. Paul, Edmonton, Wetaskiwin, Red Deer, Calgary, Drumheller, Lethbridge and Medicine Hat. See the inside back cover of this booklet for addresses and phone numbers.

## **Maintenance Enforcement Program (MEP)**

A provincial government department that is authorized to collect child and spousal support on behalf of the person entitled to receive the support. MEP may take steps such as garnishee (seizure) of bank accounts and pay cheques, seizure of assets, and suspension of driver's licences if support payments are not made voluntarily. MEP cannot reduce the amount of support payable, and MEP will not stop enforcing the Order unless instructed to do so either by the creditor or by the court. See definition of Stay of Enforcement.

## **Net**

The amount after deductions. For example, net income refers to a person's income after income taxes are deducted. The net cost of daycare is the cost of daycare after any subsidies or income tax deductions are taken into account. See definition of gross.

## **Notice of Motion**

A court form that is filed by the applicant. It tells the court and the respondent the date, time and place of the upcoming application, and everything the applicant will be asking the court for. See *Rules of Court: Rule 384*.

## **Notice to Disclose**

A document that asks a person to provide financial information. See *Family Law Practice Note 2*.

## **Order**

What the judge directed in court. The Order is then written up by the applicant and signed by the judge, or by the clerk of the court on the judge's behalf. See the definition for approval as to form and content. See *Rules of Court: Rules 315-330*.

## **Party**

Someone who is directly involved in the court action or application. A party is either a plaintiff or defendant, or an applicant or respondent.

## **Petitioner**

The person who starts a court action, for example, a divorce action. Divorces started before 1997 named the parties as petitioner and respondent. After 1997, they were named plaintiff and defendant.

## **Plaintiff**

The person who starts a court action, for example a divorce action. See definition for defendant.

## **Respondent**

A person who is responding to an application to the court. See definition for applicant.

## **Rules of Court**

A book of rules that contains the basic procedures that must be followed for beginning and carrying out a court action.

## **Service**

Delivering a document to the other party in an action or application. The documents must be served in a way that is described in the *Rules of Court* or allowed by the court in an Order for Substitutional Service. See *Rules of Court: Rules 13-26 and 564*.

## **Statement of Claim**

A document that starts a court action unless stated otherwise in the *Rules of Court* or legislation. See *Rules of Court: Rule 6(1)*.

## **Stay of Enforcement**

An Order of the Court of Queen's Bench telling the Maintenance Enforcement Program to stop taking steps to collect any support that is still owed by a person. A Stay of Enforcement is often ordered for a limited time period, and is usually ordered with conditions imposed upon the person who is required to pay the support. For example, one condition may be that minimum monthly payments must be made or the Stay of Enforcement will end.

## **Statute**

A law passed by the government. For example, the *Divorce Act* is a law passed by the federal government and the *Parentage and Maintenance Act* is a law passed by the provincial government.

## **Support Order**

An Order made by a court directing that money be paid, usually on a monthly basis, for either spousal support or child support. The word "maintenance" can be used instead of "support." In the past, the term "alimony" was used to refer to spousal support.

## **Style of Cause**

The part of any court document that identifies the type of court, and the place where the action will be heard (judicial district), the full names of the parties, and the name of the document. The style of cause is found at the top of the first page and on the backer of every court document filed. It must be exactly the same in all documents.

### **Substitutional Service Order**

If it is impossible or impractical to serve the respondent personally with court documents, you may ask the court for an Order that will allow you to serve the respondent in a different way. The court may then grant a Substitutional Service Order. This defines how you can serve the respondent with the court documents. Examples of substitutional service are posting the document on the person's door, delivery by regular mail or courier, delivery to someone else who knows or lives with the person, or advertising in a newspaper. See *Rules of Court: Rule 23.*

### **Variation Order**

A Court Order that changes the terms of an existing Court Order. See *Rules of Court: Schedule B, Form 19.*

## **Appendix 2: Sample Court Documents**

### **What forms are included**

The following forms are contained in this booklet:

- Notice of Motion (pages 23 - 29)
- Affidavit (pages 31 - 55)
- Affidavit of Service (Serving the Application) (pages 57 - 65)
- Variation Order (pages 67 - 75)
- Affidavit of Service (Service of the Order) (pages 77 - 85)

### **General Instructions for Completing Court Documents**

- These forms have been developed for typical users. If your document is more complicated or requires more space, then you will have to re-type the form.
- All documents must be readable.
- Photocopy the forms you need from the booklet and work on the photocopies as your “rough copy.” Keep the originals to prepare your final copy. You should read the form carefully before beginning to fill it out.
- Fill in all the blank lines with requested information, by either hand printing or typing, (except where signatures are required).
- Note that there is a style of cause (see Explanation of Legal Terms) at the top of the first page and on the backer of each form. Make sure that the style of cause on the first page is filled out in the same way as the one on the backer.
- The backer is the last sheet of the form. Fill in the backer with the requested information, making sure to include your court action number. The backer should be reversed so that the type faces out and is visible once the whole document is stapled together.

## **How to delete information from a document**

- You must make sure every statement in your Affidavit is true. If there are paragraphs that do not apply to you or are not correct, you should cross them off.
- To cross off paragraphs, draw a straight horizontal line, in ink, through both the first and last lines of the paragraph, then draw a straight diagonal line joining these lines and forming a letter "Z."
- To cross off a single sentence, draw a horizontal line, in ink, through the middle of the sentence.
- Use a ruler to make your lines and initial any changes that you have made. **Make sure you put your initials at the beginning and at the end of every strikeout that you make.**
- You cannot use "white out" on any court documents. Any corrections or deletions must be neat and readable.

## **Notice of Motion Family Law Application**

Use this form to notify the court and the respondent about an upcoming application.

Before filing the Notice of Motion, make sure that you:

- include your full name and the respondent's full name in the form and on the backer
- include the date, time, and place of your application
- mark the box before each item that you are requesting from the court and fill in any blanks for those items
- do not check a box if you do not want the court to make that type of Order
- give a brief statement of your reasons for making this application
- fill in the date that you swore your Affidavit in support
- sign your name at the bottom of the form
- make four copies of the original (total of five with the original)



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF \_\_\_\_\_

BETWEEN:

YOUR NAME \_\_\_\_\_

Applicant

- and -

OTHER PARTY'S NAME \_\_\_\_\_

Respondent

**NOTICE OF MOTION  
FAMILY LAW APPLICATION**

An application made by \_\_\_\_\_, will be heard at the Court  
FULL NAME OF APPLICANT

House in \_\_\_\_\_, on \_\_\_\_\_, the \_\_\_\_\_ day of  
CITY IN WHICH COURT HOUSE IS LOCATED WEEKDAY DATE

\_\_\_\_\_, 20\_\_\_\_\_, at 10:00 a.m., for:  
MONTH YEAR

Declaring or  Imputing the Respondent's income per year to be \$\_\_\_\_\_.

Declaring or  Imputing the Applicant's income per year to be \$\_\_\_\_\_.

Child Support as follows:

1. Basic Guideline support per month of \$\_\_\_\_\_.

2. Additional s. 7 expenses per month of \$\_\_\_\_\_, based on yearly  
expenses of:

<input type="checkbox"/>	Child care expenses	\$ _____
<input type="checkbox"/>	Medical/dental premiums	\$ _____
<input type="checkbox"/>	Health related expenses	\$ _____
<input type="checkbox"/>	Extraordinary school expenses	\$ _____
<input type="checkbox"/>	Post-secondary education expenses	\$ _____
<input type="checkbox"/>	Extraordinary expenses for extracurricular activities	\$ _____

Spousal support per month of \$\_\_\_\_\_.



of the following children:

1. \_\_\_\_\_, born \_\_\_\_\_;  
FULL NAME MONTH/DAY/YEAR

2. \_\_\_\_\_, born \_\_\_\_\_;

3. \_\_\_\_\_, born \_\_\_\_\_;

4. \_\_\_\_\_, born \_\_\_\_\_;

Access to the following children:

1. \_\_\_\_\_, born \_\_\_\_\_;  
FULL NAME MONTH/DAY/YEAR

2. \_\_\_\_\_, born \_\_\_\_\_;

3. \_\_\_\_\_, born \_\_\_\_\_;

4. \_\_\_\_\_, born \_\_\_\_\_;

to be exercised as follows:

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Exclusive possession of the following property:

\_\_\_\_\_

Other:

[SET OUT ANYTHING ELSE YOU ARE REQUESTING]

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Digitized by srujanika@gmail.com

The Applicant relies on the following grounds or reasons:

[PROVIDE A BRIEF STATEMENT OF YOUR REASONS FOR BRINGING THIS APPLICATION]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you do not appear, an order may be made in your absence.

The Applicant has filed an Affidavit in support of this application, sworn on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
  
*[Signature]*

day of                   , 20

**Signature of the Applicant**



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**IMPORTANT NOTICE TO RESPONDENT:**

If you want to respond to this application, you or your lawyer must attend in the Court House on the date and at the time specified.

If you want to present any evidence to the Judge hearing this application you must:

- make an Affidavit, sworn or affirmed as true before a Commissioner for Oaths or Notary Public;
- file the Affidavit with the Clerk of the Court;
- make sure the Applicant's lawyer (or the Applicant if he or she does not have a lawyer) receives the Affidavit ***at least 24 hours before the hearing.***

Action No:

YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF

---

BETWEEN:

YOUR NAME

Applicant

- and -

OTHER PARTY'S NAME

Respondent

---

**NOTICE OF MOTION  
FAMILY LAW APPLICATION**

---

YOUR NAME

YOUR ADDRESS

YOUR PHONE NUMBER



## **Affidavit**

Use this form to present all of the facts that are necessary about your application.

Before filing the Affidavit, make sure that you:

- include your full name and the respondent's full name in the form and on the backer
- fill in the paragraphs that apply to you and cross off the paragraphs that don't
- add any other facts you feel are necessary to support your application. You may need to print or type other clauses in order to present all the facts in your own case.
- number all of your paragraphs consecutively (1, 2, 3, 4...)
- letter each one of your exhibits consecutively (Exhibit A, Exhibit B...)
- make three copies of the original Affidavit, including all exhibits (total of four with the original)

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. You cannot use "white out".

Note: You cannot make any changes to your Affidavit once it has been sworn

Attach all exhibits at the end of your Affidavit just before the backer.



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
YOUR NAME

Applicant

- and -

\_\_\_\_\_  
OTHER PARTY'S NAME

Respondent

## AFFIDAVIT

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_  
YOUR NAME 'CITY' OR 'TOWN' OR OTHER NAME OF CITY, TOWN, ETC

in the Province of Alberta, MAKE OATH AND SAY THAT:

1. I am the Applicant herein and as such have a personal knowledge of the following information, except where stated to be based on information and belief in which case I do believe it to be true.

### What You are Asking For

2. I am asking the Court for a change in spousal support as follows:

GIVE DETAILS OF PROPOSED CHANGE IN SUPPORT

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### History of Your Relationship

3. Check one only:

- I am married to the Respondent.  
 I am divorced from the Respondent.  
 I have lived common-law with the Respondent from \_\_\_\_\_

DATE

to \_\_\_\_\_  
DATE



4. Check one only:

- We separated on \_\_\_\_\_.  
MONTH/DAY/YEAR
- We were divorced on \_\_\_\_\_.  
MONTH/DAY/YEAR

**Information about Your Children**

5. We have the following children: (i) \_\_\_\_\_, born \_\_\_\_\_  
NAME MONTH/DAY/YEAR  
(ii) \_\_\_\_\_, born \_\_\_\_\_  
(iii) \_\_\_\_\_, born \_\_\_\_\_  
(iv) \_\_\_\_\_, born \_\_\_\_\_

Referred to from now on as "the children"

Change the following paragraphs to suit your own parenting situation — provide details.

6. We have the following custody and access arrangements:

*(complete only if children are under 18 years old)*

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7. We have the following child support arrangements:

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**Information about your Court Order or Filed Agreement for Spousal Support**

Give details about the Order you are asking the Court to change.

8. An Order for spousal support was granted on \_\_\_\_\_ by the  
MONTH/DAY/YEAR

Honourable Justice/Judge \_\_\_\_\_.

Attached and marked as Exhibit '\_\_\_\_' to this my Affidavit is a copy of this Order.

9. Choose one only:

- Under the above Order I have to pay \$\_\_\_\_\_ per month for spousal support.  
 Under the above Order the Respondent has to pay \$\_\_\_\_\_ per month for spousal support.  
 Under the above Order have to pay a lump sum of \$\_\_\_\_\_ for spousal support.  
 Under the above Order the Respondent has to pay a lump sum of \$\_\_\_\_\_ for spousal support.



## **Changes in Circumstances**

10. Since the time the Order was granted, there has been the following change of circumstances that would affect the monthly support:

*(List everything that has changed since the date of the last Order for spousal support. Each change should be in a separate lettered paragraph.)*

(a) \_\_\_\_\_  
\_\_\_\_\_  
(b) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Income of Applicant**

11. Choose one only:

I am employed at \_\_\_\_\_  
NAME AND ADDRESS OF EMPLOYER

POSITION LENGTH OF TIME IN THIS POSITION

I am self-employed at \_\_\_\_\_  
NAME AND PLACE OF BUSINESS

LENGTH OF TIME IN BUSINESS

I have been unemployed since \_\_\_\_\_ and details of my  
MONTH/DAY/YEAR

unemployment are:

*(Give details, including prospects of employment, any benefits you are receiving, steps you are taking to find employment, or if in school, type of program and expected completion date.)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. I am a  shareholder       director       officer of a corporation. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of the financial statements of this corporation for each of the last 3 years.

13. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of my T1 General forms and Notices of Assessment and Reassessment from Canada



Customs and Revenue Agency for each of the 3 most recent taxation years (or a copy of a Canada Customs and Revenue Agency printout of my income tax returns for the last 3 years).

14. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of my 3 most recent pay remittance stubs (or statement from my employer outlining my gross pay and deductions for the year to date, and my rate of annual salary).
15. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of:  
*(Attach any other relevant documents to support the income calculation such as social assistance or disability statements, student finance information, etc.)*

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16. My total gross annual income is \$\_\_\_\_\_.

17. Choose one only:

- I do not expect any significant changes in my employment situation.  
 I expect the following changes in my employment situation:

DESCRIBE CHANGES, INCLUDING EXPECTED RAISES OR CHANGES IN SALARY

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18. I have the following education:

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19. I have worked the following jobs:

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20. I am trained to do the following types of work:

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21. Choose one only:

- I am in good health.
- I suffer from an illness or disability which affects my ability to work. (give details) \_\_\_\_\_
- 
- 

Attached and marked as Exhibit '\_\_\_\_' to this my Affidavit is a copy of a letter or report from my Doctor which describes my condition.

22. Attached and marked as Exhibit '\_\_\_\_' to this my Affidavit is a Statement of my Assets and Liabilities.

23. Attached and marked as Exhibit '\_\_\_\_' to this my Affidavit is a statement of my monthly budget.

### **Income of Respondent**

24. Choose one only:

- The Respondent is employed.
- The Respondent is self-employed.

Details of his/her employment/self-employment are: (provide if known)

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NAME AND ADDRESS OF EMPLOYER OR PLACE OF BUSINESS

---

POSITION

---

LENGTH OF TIME IN THIS POSITION

- The Respondent has been unemployed since \_\_\_\_\_ and details of his/her unemployment are:

MONTH/DAY/YEAR

(Give details, if known, including prospects of employment, any benefits the Respondent is receiving, steps he/she is taking to find employment, or if in school, type of program and expected completion date.)

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25. The Respondent is a  shareholder     director     officer of a corporation.

Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of the financial statements of this corporation for each of the last 3 years.



26. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of the Respondent's T1 General forms and Notices of Assessment and Reassessment from Canada Customs and Revenue Agency for each of the 3 most recent taxation years (or a copy of a Canada Customs and Revenue Agency printout of his/her income tax returns for the last 3 years).
27. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of the Respondent's 3 most recent pay remittance stubs (or statement from his/her employer outlining his/her gross pay and deductions for the year to date, and his/her rate of annual salary).
28. Attached and marked collectively as Exhibit '\_\_\_\_' to this my Affidavit are copies of:  
*(Attach any other relevant documents to support the income calculation for the Respondent such as social assistance or disability statements, student finance information, etc.)*

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29. I calculate the Respondent's total gross annual income to be \$ \_\_\_\_\_.
30.  I have served a Notice to Disclose on the Respondent but the Respondent has failed to provide me with the required information.

- I ask the court to impute (consider as part of) income to the Respondent in the annual sum of \$\_\_\_\_\_ for the following reasons:

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**OR**

- There is a court order granted by the Honourable Justice \_\_\_\_\_  
NAME OF JUSTICE
- on \_\_\_\_\_ DECLARING THE RESPONDENT'S GUIDELINE INCOME TO BE \$\_\_\_\_\_  
MONTH/DAY/YEAR AMOUNT IN THE ORDER



### **Other Facts**

Add any other facts, in separate numbered paragraphs (starting with #31), continuing from your last numbered paragraph. Continue your list of facts onto the last (signature) page of the Affidavit.

**OPTIONAL ADDITIONAL PAGE - MAKE SURE YOUR CLAUSES CONTINUE ONTO SIGNATURE PAGE**



SWORN BEFORE ME at the \_\_\_\_\_ )  
of \_\_\_\_\_, in the Province )  
of Alberta, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_)

) YOUR SIGNATURE

)

A COMMISSIONER FOR OATHS IN  
AND FOR THE PROVINCE OF ALBERTA



## ASSETS AND LIABILITIES

**ASSETS:**

Description of asset:	In whose name:	Current market value:	Debt registered against asset:	Date asset was acquired:
Home				
RRSPs				
Savings				
vehicles				
pension				
investments				
household goods and furnishings				
insurance				
business interests				
income tax refund				
Other: (specify)				

**DEBTS:**

1. Banks (specify)	Amount:	2. Credit Cards (specify):	Amount:
	\$		\$
	\$		\$
	\$		\$
3. Finance Companies (specify)	Amount:	4. Other (specify):	Amount:
	\$		\$
	\$		\$
	\$		\$



### MONTHLY BUDGET OF INCOME AND EXPENSES

employment income	\$	income tax	\$
employment insurance benefits	\$	union dues	\$
social assistance for family	\$	employment insurance	\$
student loans	\$	Canada Pension Plan	\$
Child Tax Benefit	\$	other pension plans	\$
other (specify)	\$	payroll savings plan	\$
	\$	other (specify)	\$
	\$		\$
<b>A. Total income from all sources:</b>	\$ _____	<b>B. Total deductions:</b>	\$ _____
<b>C. Net income (A minus B)</b>	\$ _____		

### MONTHLY EXPENSES:

food, groceries, household supplies	\$	children's activities, lessons (specify)	\$
meals outside the home	\$		\$
clothing	\$		\$
laundry, dry cleaning	\$	school expenses	\$
Rent or mortgage	\$		\$
property taxes	\$		\$
home insurance	\$	day care, babysitting	\$
cable	\$	children's allowance, gifts	\$
telephone	\$	newspapers, subscriptions	\$
utilities	\$	alcohol, tobacco	\$
home maintenance	\$	savings for future	\$
medical, dental insurance	\$	education savings	\$
medical, dental not covered	\$	vacation	\$
public transportation	\$	loans (specify)	\$
vehicle (loan, gas, ins., etc.)	\$		\$
haircuts, personal care	\$	Other: (specify)	\$
entertainment, recreation	\$		\$
		<b>D. Total Monthly Expenses</b>	\$ _____

**Summary:** Net Monthly Income (**C**) \$ \_\_\_\_\_

Less: Total Monthly expenses (**D**) \$ \_\_\_\_\_

**(C minus D) Balance:** +/- \$ \_\_\_\_\_



**Insert the Exhibits for your Affidavit here**

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.



Action No: \_\_\_\_\_  
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN  
THE JUDICIAL DISTRICT OF  
\_\_\_\_\_

BETWEEN:

YOUR NAME \_\_\_\_\_ Applicant

- and -

OTHER PARTY'S NAME \_\_\_\_\_ Respondent

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## AFFIDAVIT

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\_\_\_\_\_ YOUR NAME

\_\_\_\_\_ YOUR ADDRESS

\_\_\_\_\_

\_\_\_\_\_ YOUR PHONE NUMBER



## **Affidavit of Service (Serving the Application)**

Use this form to explain when and where the respondent received a copy of your application. It is the person who served the respondent who must provide the information about service and sign the Affidavit of Service in front of a commissioner for oaths.

Before filing the Affidavit of Service, make sure that:

- you include your full name and the respondent's full name in the form and on the backer
- the paragraphs that apply to you are filled in and the paragraphs that do not apply to you are crossed off
- the original Notice of Motion and one copy of the Affidavit are attached, as well as the Delivery Confirmation Record and Acknowledgement of Receipt if you served by registered mail, as exhibits
- each one of the exhibits is lettered consecutively (Exhibit A, Exhibit B...)
- the person who served the documents signs the Affidavit of Service in front of a commissioner for oaths
- you make one copy of the original Affidavit of Service, including all exhibits

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." The person signing the Affidavit of Service must put his/her initials at the beginning and at the end of every strikeout.

Attach all exhibits at the end of the Affidavit just before the backer.



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
YOUR NAME

Applicant

- and -

\_\_\_\_\_  
OTHER PARTY'S NAME

Respondent

## AFFIDAVIT OF SERVICE

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_,  
NAME OF DOCUMENT SERVER 'CITY' OR 'TOWN' OR OTHER NAME OF CITY OR TOWN ETC.

in the Province of Alberta, MAKE OATH AND SAY:

1. That I am an adult person.
2. That I did on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve  
DATE OF SERVICE MONTH OF SERVICE, YEAR  
\_\_\_\_\_, the Respondent, with a true copy of  
OTHER PARTY'S NAME  
the Notice of Motion and Affidavit, which are annexed and marked respectively as  
Exhibits 'A' and 'B' to this my Affidavit, by delivering the said copies to and leaving  
the same with \_\_\_\_\_, the Respondent, at  
OTHER PARTY'S NAME

\_\_\_\_\_.  
FULL ADDRESS WHERE OTHER PARTY WAS SERVED

OR

2. That I did on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve  
DATE OF SERVICE MONTH OF SERVICE, YEAR  
\_\_\_\_\_, the Respondent, with a  
OTHER PARTY'S NAME  
true copy of the Notice of Motion and Affidavit, which are annexed and marked  
respectively as Exhibits 'A' and 'B' to this my Affidavit, by enclosing such copies in an  
envelope addressed to \_\_\_\_\_, the  
OTHER PARTY'S NAME

Respondent, at:

\_\_\_\_\_.  
FULL ADDRESS OF OTHER PARTY



and posting the same by registered mail at:

ADDRESS OF POST OFFICE WHERE YOU MAILED THE MATERIAL

and annexed and marked as Exhibits 'C' and 'D' to this my Affidavit are the Delivery Confirmation Record and the Acknowledgement of Receipt for such registered mail.

SWORN BEFORE ME at the \_\_\_\_\_

of \_\_\_\_\_, in the Province

of Alberta, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. \_\_\_\_\_

SIGNATURE OF DOCUMENT SERVER

A COMMISSIONER FOR OATHS IN  
AND FOR THE PROVINCE OF ALBERTA



## **Insert your Exhibits here**

These include:

Exhibit 'A' Notice of Motion

Exhibit 'B' Affidavit

For service by registered mail:

Exhibit 'C' Delivery Confirmation Record

Exhibit 'D' Acknowledgement of Receipt

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.



Action No: \_\_\_\_\_  
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN  
THE JUDICIAL DISTRICT OF  
\_\_\_\_\_

BETWEEN:

\_\_\_\_\_

Applicant

- and -

\_\_\_\_\_

Respondent

**AFFIDAVIT OF SERVICE**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

YOUR PHONE NUMBER



## **Variation Order**

Use this form to prepare the Order made by the judge.

Make sure that:

- your full name and the respondent's full name are included in the form and on the backer
- you fill in paragraph 1 with information about the Judgment/Order that this Order changes
- you include all of the terms of the Order
- you add or cross off paragraphs, or change the wording of the sample Order as necessary to reflect the Order given by the judge in court. Sample terms are on page 75. These terms are just samples. If you need to add paragraphs or other terms you will need to re-type the sample Order
- the Order states whether the respondent appeared in court or not - by crossing off the paragraph that does not apply (found before the terms/numbered paragraphs of the Order).
- if the respondent was in court, that the respondent has signed his/her signature on the Order below the line "Approved as to form and content". If the respondent was not in court, you can cross off this paragraph in the Order.
- you number all of your paragraphs consecutively (1, 2, 3, 4)
- you make four copies of your Order (total of five with the original) and take them to the Chambers Office.

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." Make sure that you put your initials at the beginning and at the end of every strikeout that you make. You cannot use "white out".

The judge may not be prepared to sign an Order with crossed off sections or handwritten paragraphs. In this case, you will have to re-type the Order. Also, a judge's signature cannot appear on a page by itself.



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
YOUR NAME

Applicant

- and -

\_\_\_\_\_  
OTHER PARTY'S NAME

Respondent

BEFORE THE HONOURABLE )      ON \_\_\_\_\_, THE \_\_\_\_\_  
WEEKDAY  
MADAM/MR. JUSTICE \_\_\_\_\_ )      DAY OF \_\_\_\_\_, YEAR  
MONTH  
COURT HOUSE, \_\_\_\_\_, ALBERTA      )

### VARIATION ORDER

UPON THE APPLICATION of the Applicant; AND UPON READING the materials filed on behalf of the Applicant; AND HEARING representations by the Applicant;

AND UPON READING the materials filed on behalf of the Respondent; AND HEARING representations by the Respondent;

**OR**

AND UPON the Respondent not appearing in person or by agent;

IT IS HEREBY ORDERED THAT:

1. The Judgment/order granted \_\_\_\_\_, \_\_\_\_\_ by the \_\_\_\_\_  
Honourable Madam/Mr. Justice \_\_\_\_\_ is hereby varied to delete  
paragraph \_\_\_\_\_ of the said Judgment/order.
2. The amounts owing under this Order be paid to the Director of Maintenance  
Enforcement, at 10365 - 97 Street, 7th floor, Edmonton, Alberta, and shall be  
enforced by the Director unless the creditor files with the Court and the Director a



Notice, in writing, that he/she does not wish the Order to be enforced by the Director pursuant to Section 7 of the *Maintenance Enforcement Act*.

3. \_\_\_\_\_ shall pay to

FULL NAME

\_\_\_\_\_ the sum of \$ \_\_\_\_\_  
FULL NAME

per month for spousal support, payable on the 1st day of each and every month,  
commencing \_\_\_\_\_ 1, \_\_\_\_\_.

MONTH

YEAR

---

JUSTICE OF THE COURT OF QUEEN'S  
BENCH OF ALBERTA

APPROVED AS TO FORM AND CONTENT:

---

SIGNATURE OF RESPONDENT

ENTERED THIS \_\_\_\_\_ DAY OF,

\_\_\_\_\_, \_\_\_\_\_

---

CLERK OF THE COURT



Action No: \_\_\_\_\_  
YOUR COURT ACTION NUMBER

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN  
THE JUDICIAL DISTRICT OF  
\_\_\_\_\_

BETWEEN:

YOUR NAME

Applicant

- and -

OTHER PARTY'S NAME

Respondent

**ORDER**

---

YOUR NAME

YOUR ADDRESS

\_\_\_\_\_

YOUR PHONE NUMBER



## SAMPLE CLAUSES TO INCLUDE IN YOUR ORDER

The following paragraphs are some example clauses that may fit your case.

Change or adapt these examples to suit your own situation. You will have to write your own clauses that reflect the Order given by the judge in court.

---

*Note: These clauses are not actual legal advice. They simply show you how to present information that may be needed in special circumstances. These samples do not replace your need to get legal advice.*

---

\_\_\_\_\_. Spousal support shall terminate on the  
\_\_\_\_\_DATE day of MONTH, YEAR  
unless otherwise ordered by this court.

\_\_\_\_\_. Spousal support shall terminate upon  
the happening of any of the following  
events:

---

---

---

\_\_\_\_\_. \_\_\_\_\_ shall pay to  
\_\_\_\_\_  
FULL NAME  
spousal  
\_\_\_\_\_  
FULL NAME  
support in the lump sum of \$\_\_\_\_\_,  
payable on or before the \_\_\_\_\_ day  
\_\_\_\_\_  
of \_\_\_\_\_, \_\_\_\_\_.



## **Affidavit of Service (Service of the Order)**

Use this form to explain when and where the respondent received a copy of the Order made by the judge. It is the person who served the respondent who must provide the information about service and sign the Affidavit of Service in front of a commissioner for oaths.

Before filing the Affidavit of Service, make sure that:

- you include your full name and the respondent's full name in the form and on the backer
- the paragraphs that apply to you are filled in and the paragraphs that do not apply to you are crossed off
- one filed copy of the Order is attached, as well as the Delivery Confirmation Record and Acknowledgement of Receipt if you served by registered mail, as exhibits
- each one of the exhibits is lettered consecutively (Exhibit A, Exhibit B...)
- the person who served the documents signs the Affidavit of Service in front of a commissioner for oaths
- you make one copy of the original Affidavit of Service, including all exhibits

Use a ruler when crossing off the paragraphs that don't apply to you. Cross them out by drawing a straight line through the first and last lines and a diagonal line joining them to form a "Z." The person signing the Affidavit of Service must put his/her initials at the beginning and at the end of every strikeout.

Attach all exhibits at the end of the Affidavit just before the backer.



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
IN THE JUDICIAL DISTRICT OF \_\_\_\_\_

BETWEEN:

\_\_\_\_\_  
YOUR NAME

Applicant

- and -

\_\_\_\_\_  
OTHER PARTY'S NAME

Respondent

## AFFIDAVIT OF SERVICE

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_,  
NAME OF DOCUMENT SERVER 'CITY' OR 'TOWN' OR OTHER NAME OF CITY OR TOWN ETC.

in the Province of Alberta, MAKE OATH AND SAY:

- That I did on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve  
DATE OF SERVICE MONTH OF SERVICE YEAR  
\_\_\_\_\_, the Respondent, with a true copy of the  
OTHER PARTY'S NAME  
Order, which is annexed and marked as Exhibit 'A' to this my Affidavit, by delivering  
the said copy to and leaving the same with \_\_\_\_\_  
OTHER PARTY'S NAME

the Respondent, at:

FULL ADDRESS WHERE OTHER PARTY WAS SERVED

**OR**

- That I did on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve  
DATE OF SERVICE MONTH OF SERVICE YEAR  
\_\_\_\_\_, the Respondent, with a true copy of the  
OTHER PARTY'S NAME  
Order, which is annexed and marked as Exhibit 'A' to this my Affidavit, by enclosing  
the said copy in an envelope addressed to \_\_\_\_\_  
OTHER PARTY'S NAME  
the Respondent, at:

FULL ADDRESS OF OTHER PARTY

and posting the same by registered mail at:

ADDRESS OF POST OFFICE WHERE YOU MAILED THE MATERIAL



and annexed and marked as Exhibits 'B' and 'C' to this my Affidavit are the Delivery Confirmation Record and the Acknowledgement of Receipt for such registered mail.

SWORN BEFORE ME at the \_\_\_\_\_

of \_\_\_\_\_, in the Province

of Alberta, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. \_\_\_\_\_

SIGNATURE OF DOCUMENT SERVER

A COMMISSIONER FOR OATHS IN  
AND FOR THE PROVINCE OF ALBERTA



## **Insert your Exhibits here**

These include:

Exhibit 'A' Order

For service by registered mail:

Exhibit 'B' Delivery Confirmation Record

Exhibit 'C' Acknowledgement of Receipt

Make sure the exhibits are labelled alphabetically in the order in which they appear in the Affidavit.

Put them in the same order when inserting them here.



Calgary  
611 - 4th Street SW  
Tel: 403-297-7400

IN THE COURT OF QUEEN'S BENCH OF ALBERTA IN  
THE JUDICIAL DISTRICT OF

Drumheller  
511- 3rd Ave. West  
Tel: 403-833-1700

Edmonton  
14, 15-10000 Churchill St.  
Tel: 780-423-2418

Fort McMurray  
9700 Franklin Avenue  
Tel: 780-743-7125

Grande Prairie  
17250 - 99 Street  
Tel: 780-535-5340

Lethbridge  
300 - 4th Street South  
Tel: 403-331-5150

BETWEEN:

Plaintiff  
1400 - 107 Avenue

YOUR NAME

Applicant

Defendant  
4704 - 50 Street - and -  
Tel: 780-445-0224

Witnesses

OTHER PARTY'S NAME

Respondent

Assistance in Obtaining Legal Advice

**AFFIDAVIT OF SERVICE**

Dial-a-Law - Lawyer Referral  
Faxline: 1-800-661-1070

Legal Aid  
Edmonton: 780 - 427 - 7373  
Calgary: 403 - 297 - 2250  
Other areas call 310-0100

YOUR NAME

Internet Sources of Information

Federal Justice Website: [www.scc-csc.gc.ca](http://www.scc-csc.gc.ca) YOUR ADDRESS  
Alberta Government Website: [www.gov.ab.ca](http://www.gov.ab.ca)  
Alberta Justice Website: [www.scc-csc.gc.ca](http://www.scc-csc.gc.ca)  
Alberta Courts Website: [www.scc-csc.gc.ca](http://www.scc-csc.gc.ca) YOUR PHONE NUMBER



## **Queen's Bench Chambers Offices (or Clerk's Offices)**

**Calgary**  
611 - 4th Street SW  
Tel: 403-297-7405

**Medicine Hat**  
460 First Street SE  
Tel: 403-529-8710

**Drumheller**  
511- 3rd Ave. West  
Tel: 403-823-1700

**Peace River**  
9905 - 97 Avenue  
Tel: 780-624-6256

**Edmonton**  
1A Sir Winston Churchill Sq.  
Tel: 780-422-2418

**Red Deer**  
4909 - 48 Avenue  
Tel: 403-340-5220

**Fort McMurray**  
9700 Franklin Avenue  
Tel: 780-743-7136

**St. Paul**  
4704 - 50 Street  
Tel: 780-645-6324

**Grande Prairie**  
10260 - 99 Street  
Tel: 780-538-5340

**Wetaskiwin**  
4605 - 51 Street  
Tel: 780-361-1258

**Lethbridge**  
320 - 4th Street South  
Tel: 403-381-5196

## **Assistance in Obtaining Legal Advice**

### **Dial a Law - Lawyer Referral**

Phone: 1-800-661-1095

### **Legal Aid**

Edmonton: 780 - 427 - 7575  
Calgary: 403 - 297 - 2260  
Other areas call 310-0000

## **Internet Sources of Information**

Federal Justice Website: [www.canada.justice.gc.ca](http://www.canada.justice.gc.ca)  
Alberta Government Website: [www.gov.ab.ca](http://www.gov.ab.ca)  
Alberta Justice Website: [www.gov.ab.ca/just](http://www.gov.ab.ca/just)  
Alberta Courts Website: [www.albertacourts.ab.ca](http://www.albertacourts.ab.ca)

